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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,194	12/12/2001	Eldad Taub	72524	6362
7590	08/25/2004		EXAMINER [REDACTED]	NGUYEN, BINH AN DUC
GARY M NATH NATH & ASSOCIATES PLLC 1030 15th STREET, N.W. 6th FLOOR WASHINGTON, DC 20005			ART UNIT [REDACTED]	PAPER NUMBER 3713
DATE MAILED: 08/25/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/017,194	TAUB, ELDAD
	Examiner	Art Unit
	Binh-An D. Nguyen	3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 27 February 2004.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-43 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8, 10-12, 14-16, 18-20, 22-24, 26-28 and 30-43 is/are rejected.
- 7) Claim(s) 9, 13, 17, 21, 25 and 29 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 February 2004 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

1. The Amendment filed February 27, 2004 has been received. According to the Amendment, new Figures 1-4 have been added; and the specification and claims 1, 34, 39, 41, and 43 have been amended. Currently, claims 1-43 are pending in the application. Acknowledgment has been made
2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the newly submitted drawings are informal. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.
3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 41 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of claim 41 is unclear. It appears that the phrase "encoded on a computer-readable storage medium" should be inserted after "computer program."

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8, 10-12, 14-16, 18-20, 22-24, 26-28, and 30-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chishti et al. (6,227,850) in view of Fabricant (4,231,181).

Chishti et al. teaches a teeth viewing system, method, or a program having instructions embedded in a storage medium, in which a user, through a user interface, performs one or more tasks within a virtual environment, the system comprising: a virtual environment having a customized virtual three-dimensional dental image of at least one tooth of the user (2:21-55 and Fig. 5); and said one or more tasks comprise improving a certain virtual condition associated with said at least one tooth; said virtual image comprises a plurality of teeth of at least a continuous section of teeth, substantially all teeth of at least one jaw, substantially all teeth of both the upper and lower jaws; the user can manipulate the mutual orientation of the two jaws; said condition is an inappropriate relative position or orientation of at least one tooth or of a jaw; and said one or more tasks comprise re-orientation of one or more teeth (Figs. 7-17); said one or more tasks are being performed by applying virtual rules, tools or components, corresponding to manner of dental, personal or orthodontic treatment of teeth or jaws; said condition a disorder in or lack of structural integrity of one or more

teeth, and said one or more tasks comprise improving or fixing said disorder or lack of structural integrity; virtual rules comprise rules of movements of teeth or jaws corresponding to such in a real-life orthodontic treatment; extracting data from a storage medium, the data being representative of a virtual environment comprising a virtual three-dimensional dental image of at least one tooth of the user, and displaying said virtual environment; and performing, in response to a user command, one or more tasks within a virtual environment to obtain a modified environment and displaying same; storing data representative of said modified environment in a storage medium; repeating said performing step a plurality of times; manipulating, in response to a user command, the relative position or orientation of at least one tooth or of a jaw. See 1:50-20:65 and Figures 1-20. Chishti et al. does not explicitly teach the limitations of the system, method, or program embedded in a storage medium is for a computer game; virtual tools or components comprise virtual personal mouth hygiene tools (claims 18-20, 40); virtual tools or components are virtual orthodontic components corresponding to real-life orthodontic components (claims 22-24, 40); virtual rules permitting elimination of virtual infectious agents from the virtual teeth (claims 26-28).

Fabricant, however, teaches a dental toy comprising simulated tools or components comprise simulated personal mouth hygiene tools (Fig. 1); simulated tools or components are simulated orthodontic components corresponding to real-life orthodontic components; simulated rules permitting elimination of simulated infectious agents from the simulated teeth (3:24-27). See also, columns 1-4 and Figures 1-7.

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine Chishti et al.'s personalized dental images with a simulated dental toy of Fabricant to come up with a personalized virtual dental game in order to attract more people other than regular game players, thus bring forth more profits from the game.

7. Claims 9, 13, 17, 21, 25, and 29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. Applicant's arguments filed February 27, 2004 have been fully considered but they are not persuasive. Applicant's argument regarding Chishti et al. and Fabricant not teaching personalized or customized game (Applicant's remarks, pages 24-27) is not persuasive. Chishti et al. does teach a personalized or customized virtual three-dimensional dental image of a user (patient)(2:21-55 and Fig. 5); and Fabricant further teaches a dental game having toys simulated personal mouth hygiene tools (Fig. 1).

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 703-305-5713. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on 703-308-2159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

BN

  
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